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WATER RESOURCES DEVELOPMENT ACT OF 1990

JUNE 14, (legislative day, JUNE 11), 1990.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2740]

The Committee on Environment and Public Works, reports an original bill (S. 2740) to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes and recommends that the bill do pass.

OUTLINE OF THE BILL

Title I authorizes for construction 22 Army Corps of Engineers water resources development projects in accordance with the cost sharing and related reforms of the 1986 Water Resources Development Act (P.L. 99-662).

Title II contains provisions relating to specific existing water project authorities of the Corps of Engineers.

Title III contains general and technical provisions relating to the management and execution of the civil works program by the Corps of Engineers.

Title IV authorizes research and grant programs for the control of zebra mussels.

WATER RESOURCES DEVELOPMENT ACT OF 1990

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General Statement

In reporting the Water Resources Development Act of 1990, the Committee has chosen to adhere to the policies established in 1986 and continued in 1988 regarding the authorization of projects within the civil works program of the Army Corps of Engineers. This bill includes the authorization of 22 projects for construction.

The Water Resources Development Act of 1986 (P.L. 99-662), signed into law on November 17, 1986, marked the end of a 16-year deadlock between the Congress and the Executive Branch regarding authorization of the civil works program. In addition to authorizing numerous projects, this Act resolved longstanding disputes relating to cost-sharing, user fees, and environmental requirements.

Disputes over these and other matters had prevented enactment of major civil works legislation since 1970. Between 1947 and 1970, civil works authorization bills were enacted every two to three years. This regular schedule had many advantages. It helped to avoid long delays between the planning and the execution of projects, assured that engineering work and economic analysis were applicable to current conditions, minimized the backlog of projects that have been considered but not authorized by Congress, and allowed the Public Works Committees of the Congress to review proposed projects on regular schedule.

Nevertheless, this system broke down in the 1970's. There was no legislation enacted between 1970 and 1986 to authorize civil works projects for construction. The Water Resources Development Act of 1976 (P.L. 94-587) made some changes to Corps policies, but authorized no projects.

In the 97th and 98th Congress, this Committee reported legislation to authorize water resources projects and provide for cost-sharing for these projects. The House Committee on Public Works and Transportation reported bills as well. But no bill became law. In the 99th Congress, a House-Senate Conference Committee produced a Conference Report (H. Rept. 99-1013) which was passed by the House and the Senate and signed into law on November 17, 1986

(P.L. 99-662). The Water Resources Development Act of 1986 was the largest and most comprehensive authorization of the Corps civil works program since the Senate Public Works Committee was created in 1947.

Some of the major reforms included in the Water Resources Development Act of 1986 are listed below:

—Cost-sharing formulas were established for deep draft harbor dredging (section 101), flood control (section 103), shoreline protection (section 103), streambank erosion control (section 603), and other projects. Local Cooperation Agreements were required for all such projects. Projects for enhancement of fish and wildlife resources were allowed to be carried out at 100 percent Federal expense (sections 906 and 1135.)

—The Harbor Maintenance Trust Fund, funded by a new Harbor Maintenenace Tax, was established to pay forty percent of the Federal cost of maintaining authorized deep draft navigation channels (sections 210, 1402 and 1403).

—Projects authorized prior to 1986 that were incomplete would be deauthorized without Congressional action if no funds were expended on the project for a period of 10 years; projects authorized in 1986 or thereafter would be deauthorized if not funded for a period of 5 years (section 1001).

These policy changes apply to all projects contained in the Water Resources Development Act of 1988 (P.L. 100-676), signed into law on November 17, 1988, and all projects contained in the Water Resources Development Act of 1990 as reported by this Committee.

A substantial number of reforms to the civil works program achieved in 1986 consisted of changes to the process followed by the Congress in authorizing civil works projects. These reforms have helped in the resumption of a regular authorization schedule for the civil works program.

The Committee wishes to make the following statement of policy regarding the authorization of projects under the Civil Works Program of the Army Corps of Engineers.

Statement of Committee Policy

Since 1986 it has been the policy of the Committee to authorize for construction projects that conform with cost-sharing and other policies established in the Water Resources Development Act of 1986. In addition, it has been the policy of the Committee to require all projects to have undergone full engineering, environmental and economic review by the Chief of Engineers.

A Corps of Engineers water resources project is initiated when the Senate Committee on Environment and Public Works or the House Committee on Public Works and Transportation approves a Committee Resolution requesting that the study of a project be undertaken. Once such a resolution is approved by either Committee, the Corps is authorized to proceed with a reconnaissance study of the proposed project at 100 percent Federal cost.

When this is complete, the Corps approaches potential local sponsors of a project, such as a port authority, county, city or State, regarding the undertaking of a feasibility study for the project. In accordance with section 105 of the Water Resources Development Act

of 1986, feasibility studies are funded at 50 percent Federal cost and 50 percent local cost. If a local sponsor agrees to provide this cost share, the Corps proceeds with the study.

When the feasibility study is completed, the Corps' District Engineer reviews the results and forwards a recommendation on the project to the appropriate Corps Division Headquarters for review. The District Engineer's Report describes the proposed project in detail, and includes various engineering options, estimates of the costs and benefits of each option, and a preliminary estimate of the environmental impact of each option.

If the District Engineer's Report is approved by the Division Commander, it is forwarded to the Board of Engineers for Rivers and Harbors. If approved by the Board, it is forwarded to the Chief of Engineers for final planning review. If approved by the Chief of Engineers the report is forwarded to the Assistant Secretary of the Army for Civil Works in the form of a Chief of Engineers Report. Projects may receive a favorable Chief of Engineers Report only if they have a positive benefit-to-cost ratio and a favorable statement of environmental impact.

The Committee feels that projects that have reached this stage have undergone sufficient technical, environmental, and economic review, and that congressional review for authorization is appropriate. The Committee considers it premature to authorize projects that have not completed this process.

Some of the projects sent to the Assistant Secretary of the Army by the Chief of Engineers are forwarded to the Congress with a recommendation that construction be authorized. Such a recommendation only occurs after the project has been reviewed by the Office of Management and Budget. While the Committee recognizes the prerogative of the Administration to make recommendations regarding the authorization of Corps projects, the Committee does not feel bound by these recommendations. The decision to authorize a project rests with the two Houses of Congress.

In the opinion of the Committee, adherence to this policy allows for long term stability in the authorization of Corps projects. The Committee wishes to make clear that policy issues regarding the type of project that may be authorized are independent of matters regarding technical review. The Committee reserves the right to recommend projects for authorization that do not fall within the traditional role of the Corps or which are for purposes not recognized as valid by the Executive Branch.

The Committee believes that the review of projects by the Chief of Engineers is technical in nature and does not involve political or policy judgement. The Committee does not have the resources to perform the necessary economic, engineering, and environmental review of each project, and has therefore chosen to use the findings of the Corps for the evaluation of projects. At present, it is the view of the Committee that the Corps is performing these functions well. It is emphasized that the practice of using Chief of Engineers' reports to measure the validity of projects does not represent a preclearance of projects with the Administration. If the nonpolitical nature of the Chief of Engineers' review process were to change in the future, the Committee would likewise reserve the right to re-

evaluate the practice of using Chief of Engineers' reports for the purpose of project authorization.

The Committee has always been opposed to the contingent authorization of water resources projects. Such an authorization is usually conditioned on an expected favorable report on a project by the Chief of Engineers followed by approval of the Secretary of the Army. Exceptions to this previously unwritten Committee policy will not be supported.

New Cost Sharing and User Fees

The Committee has reviewed carefully the Administration's proposed new cost sharing and user fee proposals. The reported legislation includes the Administration's proposal to cost share planning assistance to States. Such a policy is consistent with the current study and technical assistance cost sharing requirements of the Corps of Engineers.

The Administration's proposal to recover half the cost of providing flood plain management services, however, has been modified. The Corps has been performing this service to public and private entities across the country for a generation. Indeed, the Corps can be said to be the sole repository of such information for the Nation.

The Administration proposed 50 percent cost sharing for all recipients of flood plain management services. The Committee does not believe that there is a programmatic reason to require public entities to pay for this information. However, private interests which seek such information clearly do so with the expectation of a direct benefit and should pay the full cost of being provided with such information. The Committee also believes that the resources of the Corps of Engineers should not be expected to cover flood plain management services to other Federal agencies. Therefore this legislation provides for 100 percent cost sharing for these services on the part of private entities and Federal agencies, and the continuation of no-cost service to non-Federal public entities.

The Administration's proposal to authorize the Corps to utilize the Harbor Maintenance Trust Fund for up to 100 percent of the operation and maintenance costs of commercial channels and harbors has been included in the Committee approved bill with a modification. The Committee believes that it is very important to define what may be financed from the Harbor Maintenance Trust Fund. Therefore, a definition of eligible operation and maintenance costs has been made part of this legislation.

It is noted that the Administration's proposal to increase the level of the fees which flow into the Harbor Maintenance Trust Fund does not fall within the jurisdiction of the Environment and Public Works Committee.

With respect to the Administration's proposal to authorize the Corps of Engineers to recover the costs of certain recreational services, the Committee was not presented with adequate information on which to evaluate this proposal. Only if the Congress knows specifically what type of cost recovery mechanisms would be implemented, where they would be implemented, and what specific services would be assessed, can a cost recovery proposal be evaluated.

CORPS MANAGEMENT

A number of provisions in the Committee approved legislation address specific concerns which have arisen over particular management practices of the Secretary and the Corps. The Committee believes that the process of project evaluation which is constantly being reformulated must be an open process, a process which permits exchange between the Corps and local interests. Partnership requires that this be the case.

The Committee believes that the Engineer Regulation concerning "single entity" or "single owner" as presently implemented is inappropriate. Public facilities have no single owner. If privately owned facilities in a project area are believed by the Secretary to benefit excessively, then the project sponsor who is adversely affected by this determination is entitled to have this condition established as fact.

The Committee also provided that the Secretary shall reformulate procedures to determine the ability of a non-Federal interest to pay the required cash contribution of flood control projects pursuant to section 103(m) of the 1986 Water Resources Development Act. The Committee is well aware of the complexities of this process, and of the inherent difficulties in establishing these procedures. Nevertheless, the Committee is convinced by the testimony received that the existing procedures which determine ability to pay are inadequate. The Committee urges the Secretary to consider consulting with the academic community in developing new ability to pay standards.

PORT STEWARDSHIP

The Committee is concerned with the growing disaffection within the port community caused by certain management policies of the Secretary and the Corps of Engineers. The Committee believes that the Corps has no more important mission than the oversight of commercial navigation harbors and channels. The fabric of the Nation's transportation system and the growing importance of intermodal transport require that our harbors be efficiently improved and adequately maintained. Port authorities throughout the country are the largest and most permanent set of "partners" with which the Corps of Engineers interacts. The importance of this alliance cannot be overstated.

It is the view of the Committee that relationships between the port community and both the Secretary and the Corps are deteriorating. These relationships must be reevaluated and redirected.

First and foremost, a new attitude of cooperation must be fostered. The present situation in Oakland, California is a case in point. A much-needed harbor deepening has been authorized for the port of Oakland, but implementation has been delayed due to disputes over the disposal of dredged material. Resolution of this issue will not be easy. The Committee believes that the Chief of Engineers and the Secretary must take a more active role in providing solutions to this problem. The Chief and the Secretary should make every possible effort to propose innovative solutions to the problem of dredged material disposal.

The Committee further believes that Corps district offices should reexamine their relationship with the port community in each region of the country and develop specific action plans to meet the needs of this vital segment of our transportation system. The Chief of Engineers and the Secretary need to focus more closely on this part of the civil works program.

Three other port-related issues which have been raised in recent testimony should also be reviewed by the Secretary and the Chief of Engineers. These issues are other symptoms of the more fundamental disaffection which has been discussed above.

Since 1899, section 10 permits for the relocation of utility crossings of navigable waters have been required by the Corps. The 1986 Water Resources Development Act required that the cost of relocating utility transmission lines less than 45 feet in depth remain the financial responsibility of the utility owner. However, the Corps has not consistently enforced these permits, at times leaving ports with no legal basis to accomplish the relocation work.

While the legal issues surrounding the Corps' use of its regulatory authority in these cases is complex, the Committee believes that the Secretary and the Chief of Engineers should establish a working group to establish clear guidelines with regard to permit enforcement practices. Furthermore, the Chief of Engineers should establish, in his office, a point of contact for the entire port community to ensure the uniformity of Corps policy and to provide guidance and advice to ports faced with complex utility relocation issues.

Secondly, in the past, the Corps has insisted on terms in local cooperation agreements that provide for the transfer of sponsor escrow account funds, at a minimum, on an annual basis—long before they are necessary to pay a construction contractor. The Secretary has stated that such action was taken in order to ensure compliance with the Antideficiency Act. Interest on the funds received by the government from the sponsor, but not paid to the contractor for months (for years) has been and continues to be lost to the project sponsor.

While in more recent agreements the Corps has provided for more flexible withdrawal arrangements, this practice is patently unfair and belies the partnership character of the local cooperation agreement. The Committee believes the Secretary should establish a national uniform procedure for withdrawals in order to eliminate interest losses to local sponsors. The Committee has not proposed legislation in this area at this time because the Secretary has clearly demonstrated his awareness of the problem and his desire to resolve it administratively.

Finally, the Committee is aware of the current debate over the interpretation of section 207 of the 1986 Water Resources Development Act. That provision allows for the construction of harbor improvements in "useable" increments.

The Committee understands that this term is being interpreted by the Corps as being synonymous with the word "economic". It is not. The Committee believes that congressional intent in 1986 was clear. Corps harbor projects are planned with much larger projects in mind than local sponsors could possibly cost share at one time. Concerns were raised that the Corps lacked the authority to pro-

ceed to construction with less than the fully authorized harbor improvement project, and section 207 was included in the legislation to allow for the rational development of harbor projects in "useable" increments—i.e., pieces that made programmatic sense.

St. Georges Bridge, Delaware

The Committee would like to make note of the situation surrounding the St. Georges Bridge in Delaware. The existing bridge provides an important crossing for the federally-owned Chesapeake and Delaware Canal. The issue has been raised as to whether the Corps of Engineers has the authority to replace the existing bridge with a wider crossing to accommodate projected traffic loads along Route 13. After extensive review of the history of the canal and its crossings, the Committee believes that the Corps possesses authority to construct a new bridge at St. Georges.

The Committee has found that the history of the crossings for the Chesapeake and Delaware Canal presents a unique situation. The original charter for the canal, dating from 1801, allowed a company to construct a canal from the Delaware Bay to the Chesapeake Bay. However, because the canal severed the State of Delaware in two, the State required the canal operator to provide and maintain "good and sufficient" crossing over the canal at the operator's expense. The crossing requirement ensured that the State's economy, particularly that of southern Delaware and the Delmarva peninsula, would not be impeded by the canal and that Delaware citizens would not incur inequitable costs associated with the canal.

In 1919, the Federal Government took full ownership and operation of the canal through condemnation proceedings. The record of Congressional action leading to that condemnation, and the subsequent legislation, make clear that the United States recognized that it was not only taking over the physical property of the canal, but also the contractual obligations governing it.

The fact that the Federal Government has fully funded the replacement of this bridge in the past from the operation and maintenance account of the Corps of Engineers civil work program substantiates this fact.

Questions about the bridge that this Committee reviewed revolved around the authority of the Corps of Engineers to construct a new bridge. The Committee believes that the terms of the 1801 charter, as assumed by the Federal Government in 1919, provide the necessary authority.

The Federal Government has upheld its responsibility according to the terms of the original charter during the seventy-one years it has owned the canal. The Committee believes the Federal Government should continue to do so, and reaffirms the authority of the United States, through the Army Corps of Engineers, to build a replacement bridge St. Georges.

Section-by-Section

Title I

Title I authorizes for construction 22 new Army Corps of Engineers water resources development projects. All of these projects

are subject to the cost ceiling, automatic deauthorization, cost sharing, and other policies of the 1986 Water Resources Development Act.

SECTION 101

This section authorizes for construction 19 new Army Corps of Engineers water resources development project. Each project has completed Corps of Enginers planning and review, and all have a favorable Chief of Engineers report. Descriptions of the projects are as follows:

Bayou La Batre, Alabama

Location—South Mobile County, Alabama, thirty miles southwest of Mobile.

Purpose—Commercial navigation.

Problem—Insufficient channel depth resulting in operational and production inefficiencies for commercial fishing, ship building, and other marine-related industries.

Recommended Plan—Deepening and extending existing channels. The total length of the improved channel is about 23 miles.

Environmental Impact Statement—Final statement filed with the EPA in November, 1988.

Project Costs—Total $16,230,000. First Federal $4,490,000; first non-Federal $11,740,000.

Benefit/Cost Ratio—2.7 to 1 at a discount rate of 8⅞ percent.

Clifton, Arizona

Location—Southeastern Arizona, adjacent to the San Francisco River.

Purpose—Flood Control.

Problem—Recurring severe flood damages to residential and commercial properties.

Recommended Plan—Structural and non-structural measures, including a 2500 foot levee, minor structural modifications of a railroad bridge, floodproofing of commercial buildings, relocation of 108 households, and redevelopment of floodplain areas for recreational use.

Environmental Impact Statement—Final statement filed with the Environmental Protection Agency on July 1, 1988.

Project Costs—Total $12,510,000. First Federal $9,150,000; first non-Federal $3,360,000.

Benefit/Cost Ratio—1.2 to 1 at a discount rate of 8⅞ percent.

Nogales, Arizona

Location—Nogales Wash and its tributaries in Nogales, Arizona.

Purpose—Flood Control.

Problem—Recurring flood damages to residential and commercial properties in Nogales and neighboring communities.

Recommended Plan—Structural and non-structural measures, including lateral collector channels, channel improvements, a watershed flood warning system, recreation facilities, and mitigation measures.

Environmental Impact Statement—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs—Total $7,260,000. First Federal $5,440,000; first non-Federal $1,820,000.

Benefit/Cost Ratio—2.0 to 1 at a discount rate of 8⅞ percent.

Coyote and Berryessa Creeks, California

Location—Santa Clara County, California in the communities of San Jose, Alviso, and Milpitas.

Purpose—Flood control.

Problem—Recurring flood damages to residential, commercial, and industrial properties.

Recommended Plan—A combination of offset levees, canals, channel improvements, floodwalls, and fish and wildlife damage mitigation measures.

Environmental Impact Statement—Final statement filed with the Environmental Protection Agency in July, 1988.

Project Costs—Total $56,300,000. First Federal $39,000,000; first non-Federal $17,300,000.

Benefit/Cost Ratio—1.04 to 1 (Coyote Creek), 1.3 to 1 (Berryessa Creek) at a discount rate of 8⅞ percent.

Miami Harbor Channel, Florida

Location—Nothern part of Biscayne Bay, on the southeast coast of Florida.

Purpose—Commercial navigation

Problem—Current channel and turning basin dimensions constrain efficient vessel movement, increasing transportation costs and creating safety problems.

Recommended Plan—Deepen the outer channel to 44 feet, deepen the interior channels to 42 feet, and deepen and widen the turning basin.

Environmental Impact Statement—Final statement filed with the Environmental Protection Agency in August, 1989.

Project Costs—Total $65,700,000. First Federal $41,920,000; first non-Federal $23,780,000.

Benefit/Cost Ratio—1.5 to 1 at a discount rate of 8⅞ percent.

Martin County, Florida

Location—22 miles of ocean shorefront of Martin County, 225 miles south of Jacksonville.

Purpose—Erosion control.

Problem—Significant dune erosion and shoreline recession due to storms, reducing capacity to meet long term recreational needs.

Recommended Plan—Restoration of about 4 miles of the primary dune system. A level berm will provide storm protection to the dune system and recreation space.

Environmental Impact Statement—Final statement filed with the Environmental Protection Agency in September, 1988.

Project Costs—Total $9,400,000. First Federal $3,850,000; first non-Federal $5,550,000.

Benefit/Cost Ratio—1.5 to 1 at a discount rate of 8⅞ percent.

Fort Wayne, Indiana

Location—Fort Wayne, Indiana, where the St. Joseph and St. Marys Rivers join to form the headwaters of the Maumee River.

Purpose—Flood control.

Problem—Recurring flooding in the Fort Wayne area resulting in severe residential and commercial damage.

Recommended Plan—Upgrading 35,000 feet of levee, floodwall, and steel sheet pile crib along the tributaries; addition of a new pumping station, bridge and road alternations, plus recreational facilities.

Environmental Impact Statement—Final statement was filed with the EPA in September, 1988.

Project Costs—Total $16,300,000. First Federal $12,100,000; first non-Federal $4,200,000.

Benefit/Cost Ratio—2.7 to 1 at a discount rate of 8⅞ percent.

Aloha-Rigolette Area, Louisiana

Location—Northcentral Louisiana near Alexandria and Pineville, Louisiana.

Purpose—Flood control.

Problem—Flooding in the basin resulting from increased runoff due to cleared forest land and decreasing bayou carrying capacity.

Recommended Plan—Construction of a floodgate structure, clearing of streams in the floodplain, and mitigation measures.

Environmental Impact Statement—Final statement was filed with the EPA in September, 1989.

Project Costs—Total $8,283,000. First Federal $6,212,000; first non-Federal $2,071,000.

Benefit/Cost Ratio—1.2 to 1 at a discount rate of 8⅞ percent.

Boston Harbor, Massachusetts

Location—The Port of Boston, Massachusetts.

Purpose—Commercial navigation.

Problem—Insufficient channel depth in three major tributaries resulting in tidal delays, limitations on vessel size and loading, and safety concerns.

Recommended Plan—Deepening the Reserved, Mystic River, and Chelsea River channels, dredging berthing areas, and widening the confluence areas.

Environmental Impact Statement—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs—Total $27,215,000. First Federal $16,854,000; ~~first~~ non-Federal $10,361,000

Benefit/Cost Ratio—1.5 to 1 at a discount rate of 8⅞ percent.

Ecorse Creek, Michigan

Location—The Ecorse Creek Drainage Basin in southeastern Michigan, south of Detroit.

Purpose—Flood control.

Problem—Recurring flood damage due to the severely limited hydraulic capacity of the North Branch Ecorse Creek and Sexton-Kilfoil Drain.

Recommended Plan—Construction of a stormwater retention basin.

Environmental Impact Statement—Final statement filed with the EPA in November, 1988.

Project Costs—Total $7,280,000. First Federal $4,560,000; first non-Federal $2,720,000.

Benefit/Cost Ratio—1.3 to 1 at a discount rate of 8⅞ percent.

Great Lakes Connecting Channels and Harbors

Location—The waterways between the Great Lakes which provide deep-draft commercial navigation and the deep-draft harbors upstream of the Welland Canal

Purpose—Commercial Navigation

Problem—Need to maximize efficient use of the system by improved service to class 10 and other vessels, reducing the number of annual delays.

Recommended Plan—Deepening areas along the St. Marys River and in Duluth Harbor. Dredged materials are to be deposited to form a habitat island for endangered species.

Environmental Impact Statement—Final statement was filed with the EPA in September, 1988

Project Costs—Total $7,489,100. First Federal $5,037,500; first non-Federal $2,451,600.

Benefit/Cost Ratio—23 to 1 at a discount rate of 8⅞ percent.

Coldwater Creek, Missouri

Location—Located in the northern part of highly urbanized St. Louis County, Missouri.

Purpose—Flood control.

Problem—Recurring flooding and streambank erosion in the metropolitan area.

Recommended Plan—Widening 10 miles of the main channel of Coldwater Creek, enlarging the opening through a railroad embankment, construction of two levees, a flood forecasting and warning system, and recreation facilities.

Environmental Impact Statement—Final statement was filed with the EPA in April, 1988.

Project Costs—Total $22,380,000. First Federal $15,500,000; first non-Federal $6,880,000.

Benefit/Cost Ratio—1.6 to 1 at a discount rate of 8⅞ percent.

River Des Percs, Missouri

Location—111 square miles in west central St. Louis County and St. Louis City, Missouri.

Purpose—Flood control.

Problem—Recurring flood problems and streambank erosion in the metropolitan area.

Recommended Plan—Channel improvements along approximately 5 miles of River Des Peres, addition of a flood forecasting and warning system, floodproofing, and recreation facilities.

Environmental Impact Statement—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs—Total $20,550,000. First Federal $15,270,000; first non-Federal $5,280,000.

Benefit/Cost Ratio—1.4 to 1 at a discount rate of 8⅞ percent.

Passaic river, New Jersey and New York

Location—A 935 square mile watershed in northeastern New Jersey and southeastern New York.

Purpose—Flood control.

Problem—Recurrent tidal and fluvial flood problems in the metropolitan area.

Recommended Plan—A combination of channel improvements, levees, floodwalls, diversion tunnels, storage areas, and fish and wildlife mitigation measures.

Environmental Impact Statement—Final statement filed with the EPA in May, 1982.

Project Costs—Total $1,200,000,000. First Federal $890,000,000; first non-Federal $310,000,000.

Benefit/Cost Ratio—1.1 to 1 at a discount rate of 8⅞ percent.

Rio de la Plata, Puerto Rico

Location—North central Puerto Rico along the Rio de la Plata.

Purpose—Flood control.

Problem—Frequent flooding in the area, affecting 12,000 families and 300 commercial establishments.

Recommended Plan—A combination of levees, channel improvements, and interior drainage measures.

Environmental Impact Statement—Final statement was filed with the EPA in September, 1988.

Project Costs—Total $56,990,000. First Federal $34,780,000; first non-Federal $22,210,000.

Benefit/Cost Ratio—1.7 to 1 at a discount rate of 8⅞ percent.

Myrtle Beach, South Carolina

Location—Myrtle Beach and vicinity.

Purpose—Storm damage reduction.

Problem—Recurring damage to structures in the study area due to winter storms.

Recommended Plan—Placement of a protective beach in three separable areas to provide protection from a 5-year storm surge.

Environmental Impact Statement—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs—Total $59,730,000. First Federal $38,820,000; first non-Federal $20,910,000.

Benefit/Cost Ratio—3.4 to 1 at a discount rate of 8⅞ percent.

Buffalo Bayou, Texas

Location—The Buffalo Bayou and tributaries in the Houston metropolitan area.

Purpose—Flood control.

Problem—Frequent flooding of urban and suburban properties due to overbank stream flooding in the 1034 square mile drainage basin.

Recommended Plan—Flood damage reduction plans including stream enlargements, selective stream clearing, and flood detention basins in six tributary drainage basins, plus recreational facilities and fish and wildlife mitigation measures.

Environmental Impact Statement—Final statement was filed with the EPA in September, 1988.

Project Costs—Total $544,604,000. First Federal $309,313,000; first non-Federal $235,291,000.

Benefit/Cost Ratio—3.7 to 1 at a discount rate of 8⅞ percent.

Ray Roberts Lake, Texas

Location—Greenbelt corridor between Ray Roberts Dam and Lewisville Lake in the Trinity River Basin in the Dallas-Ft. Worth metropolitan area.

Purpose—Recreational facilities.

Problem—Need for alternative recreational facilities in the form of stream oriented open-space recreation areas in the urban area.

Recommended Plan—Acquisition and management of 1600 acres along the 14 river mile stretch of the Elm Fork of the Trinity River between Ray Roberts Dam and Lewisville Lake. The acquisition is in lieu of traditional recreation facilities at Lewisville Lake provided in the project authorization.

Environmental Impact Statement—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs—Total $4,620,000. First Federal $1,730,000; first non-Federal $2,890,000.

Benefit/Cost Ratio—3.1 to 1 at a discount rate of 8⅞ percent.

Upper Jordan River, Utah

Location—The Jordan River Basin in northcentral Utah.

Purpose—Flood control.

Problem—Recurrent flooding along the Jordan River due to snowmelt and rainstorms.

Recommended Plan—Diversion measures including a diversion structure and conduit plus enlarged detention basins.

Environmental Impact Statement—Final statement was filed with the EPA in July, 1988.

Project Costs—Total $7,900,000. First Federal $5,200,000; first non-Federal $2,700,000.

Benefit/Cost Ratio—1.4 to 1 at a discount rate of 8⅞ percent.

SECTION 102

(a) With respect to inland navigation, the Committee has chosen to authorize two lock and dam replacements on a contingent basis: the McAlpine Lock and Dam on the Ohio River in Indiana and Kentucky, and Lock and Dam Numbers 2 and 3 on the Monogahela River in Pennsylvania. These projects are part of the inland navigation system and therefore have no local sponsor. They are integral parts of a system that the Federal Government bears the principal responsibility for maintaining. The existing facilities have deteriorated to the point where the danger of catastrophic failure is present.

The Committee is concerned that the Secretary is not managing the inland navigation system as a system. While the Committee recognzies that the point-specific authorization of lock and dam projects may not be the best way to manage this system, it is clear that the two projects authorized are critical to future navigation on the Ohio and Monongahela Rivers. Furthermore, the Committee understand that Corps review of these projects likely will be completed before the Committee considers water resources legislation in 1992, and that postponement of authorization could lead to delays in construction.

The following projects are authorized contingent on a favorable review by the Chief of Engineers and approval by the Secretary of the Army.

McAlpine Lock and Dam, Indiana and Kentucky

Location—The Ohio River near Louisville, Kentucky

Purpose—Inland Commercial Navigation

Problem—Critical features of the structure are in poor physical condition; are under capacity; and cause serious delays in transiting the Ohio River.

Recommended Plan—A new 1,200 foot lock will be built on the site of the present facility; a new bridge spanning the upstream end of the new lock and a fixed weir across the end of the lock with a roadway on top will replace the existing swing bridge.

Environmental Impact Statement—The draft final statement was filed with the EPA on November 9, 1989.

Project Costs—Total $219,400,000. Half of these costs are to be financed from the Inland Waterway Trust Fund.

Benefit/Cost Ratio—1.6 to 1 at a discount rate of 8⅞ percent.

Locks and Dams 2 and 3, Monongahela River, Pennsylvania

Location—Monongahela River, near the city of Pittsburgh.

Purpose—Inland Commercial Navigation

Problem—These facilities were constructed in 1906 and 1907. Severe deterioration and structural instability have been identified at both facilities.

Recommended Plan—Replacement of the existing lock chambers with 84 foot or 110 foot wide locks and rehabilitation of the existing dams.

Environmental Impact Statement—The Environmental Impact Statement will be completed as part of the Chief of Engineers' report.

Project Costs—Total $450,000,000. Half of these costs are to be financed from the Inland Waterway Trust Fund.

Benefit/Cost Ratio—1.3 to 1 at a discount rate of 8⅞ percent.

Subsection (b) of section 102 provides that half the costs of the above projects shall come from the Inland Waterways Trust Fund, and the remaining half from the General Treasury.

Kissimmee River, Florida

Section 102(c) authorizes one project for construction on a contingent basis that will require a local sponsor: the Kissimmee River Restoration Project in Florida. This project will remedy environmental damage caused by flood control work performed by the

Corps many years ago. The Corps of Engineers bears primary responsibility for the damage that made this project necessary.

The Kissimmee River project is authorized conditional on its being favorably reviewed by the Chief of Engineers and approved by the Secretary of the Army. A description of the project follows.

The Kissimmee, the main river feeding Lake Okeechobee and thus essentially the headwaters of the whole South Florida Everglades, once snaked back and forth across a one to two mile floodplain and along a 103 mile course before emptying into Lake Okeechobee. To provide flood protection for a growing central Florida community, the Army Corps of Engineers was authorized to "channelize" the river by cutting a straight 56 mile canal to the lake. Over 45,000 acres of wetlands were drained, and the resulting increase in agriculture and development in the river basin has contributed to severe nutrient loading of the lake.

"Dechannelizing" the river and returning it largely to its original flow path would restore a functioning river-floodplain ecosystem, fully restore two thirds of the original wetlands, and significantly improve most of the remaining wetlands. In addition, it would greatly improve the capacity of the system to filter nutrients and contaminants flowing into the lake.

In 1985 the Corps completed an environmental restoration feasibility study of the river. The recommendations of this report were never processed because environmental enhancement projects which lacked a formal benefit to cost calculation were not supported by the Secretary of the Army for funding at that time.

In recognition of the need for the Corps to engage in environmental restoration of existing projects, Congress added Section 1135 to the Water Resources Development Act of 1986 which authorized $25 million for such projects over two years, with the Kissimmee as a primary focus. Under the Water Resources Development Act of 1988, Congress extended the Section 1135 environmental demonstration program for an additional three years.

Under Section 1135, $6.3 million has been appropriated for the Kissimmee to date, but this section limits the Corps' role to those environmental activities consistent with the project's original design, i.e., navigation and flood protection.

Section 102(c) is a response to the time, scope and funding limitations of Section 1135. It modifies the original authorization of the project that channelized the river by authorizing a comprehensive environmental restoration of the Kissimmee River. The restoration shall include, but not be limited to, filling of the existing canal, removal of spillways and locks, and increasing the storage in the upper Kissimmee basin. Additionally, the environmental restoration must minimize, to the fullest extent possible, its effects on the original project's flood control and navigation purposes.

The restoration is authorized at an estimated total first cost of $270 million contingent on the issuance of a favorable Chief of Engineers report and approval of this report by the Secretary. The Chief's report shall be based on the Level II backfilling plan proposed by the local sponsor, the South Florida Water Management District, in its report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design report."

Subsection (d) makes clear that the Secretary may use funds appropriated under Section 1135 as well as funds appropriated pursuant to this section to implement the restoration project.

With this project the Committee intends to help chart a new course for the Army Corps of Engineers, one in which the Corps utilizes its extensive expertise for the restoration and protection of the environment.

Non-Federal interests shall bear at least 25 percent but not more than 50 percent of the total project first cost. Total project first cost includes all land, easements, rights-of-way, relocations, and dredged material disposal areas of which the costs are the responsibility of the non-Federal interests up to the 50 percent maximum.

TITLE II: PROJECT RELATED PROVISIONS

SECTION 201

This section authorizes the Corps to construct a flood control project to protect Belen, New Mexico. The City of Belen is situated in a bowl-like configuration between the Rio Grande River on the east and mesas to the west. Flood waters of the mesas have covered much of the City of Belen on several occasions, damaging property and threatening lives.

The project would widen and deepen the Highline Canal, which is owned by the Middle Rio Grande Conservancy District. With an enlarged capacity, the canal would capture the runoff from the west, subsequently transferring the runoff water about six miles downriver to be released into the Rio Grande.

Because of the topography and the lengthy diversion required, this project is relatively expensive. The Corps has been unable to design a project that can be justified on strict national economic development terms.

Therefore, this section authorizes the project pursuant to Section 903(c) of the 1986 Water Resources Development Act. Under that provision, projects that are deemed uneconomic may still be approved by the Congress if non-Federal interests agree to pay all the costs of the project over and above a sum needed to equal the benefits of the project.

Under the language approved by the Committee, the non-Federal sponsors will be required to contribute the standard 25 percent non-Federal share on that portion of the project that equals the benefits of the project, as well as to contribute all the additional remaining costs.

Specifically, this section requires the non-Federal interests to contribute $7,446,000 toward the full cost of the project which is $19,575,000.

SECTION 202

This section deauthorizes the Cross Florida Barge Canal and transfers to the State of Florida, without consideration, all Federal lands acquired for the canal, and facilities completed for the project, for the purposes of combining them with State-acquired lands and creating a "greenway corridor". The deauthorization and land transfer are conditioned upon the State, through a resolution

adopted by the Governor and State Cabinet, agreeing to several terms. The primary terms include the following.

First, the State must agree to create, preserve and maintain a greenway corridor along the original canal route (from the Gulf of Mexico to the Atlantic Ocean) to be used by the public only for compatible recreation and conservation activities as defined in a management plan to be developed by the State. The management plan must describe the actual boundaries for the corridor which must be at least 300 yards wide except for those areas where a) as of the date of enactment, the State owned no land or the land it did own was less than 300 yards wide, or b) a road or bridge crosses the corridor. It is the Committee's intention that the State management plan describe in a comprehensive fashion how the State will create, manage and improve the greenway.

Second, the State must agree to designate the eastern portion of the corridor (from the southwest boundary of the Oklawaha River Basin to the Atlantic Ocean) a State park, conservation area and/or recreation area.

Third, the State must agree to preserve, enhance, interpret and manage the western portion of the corridor (from the Gulf of Mexico to the southwest boundary of the Oklawaha River) for the public interest in perpetuity, subject to the designation and sale of non-environmentally sensitive parcels of property as surplus lands pursuant to the State management plan. It is the Committee's intention that the public interest be defined as the conservation of environmental, recreational and cultural values of the greenway.

Fourth, the State must agree to pay six counties—Citrus, Clay, Duval, Levy, Marion and Putnam—at least $32 million as reimbursement for taxes they collected earlier to help build the canal. Cash payments may be derived only from assets of the State Canal Authority, the Cross Florida Navigation District or from the sale of former canal lands designated surplus by the State. In lieu of cash, the counties may choose to accept former canal lands designated surplus by the State.

Fifth, the State must agree that it may use any funds remaining after the sale of such surplus lands to acquire additional land for the corridor as prescribed in its management plan. Any and all such funds not used for land acquisition must be used only for improving and managing the greenway.

While the Secretary must transfer all Federal lands to the State immediately upon the passage of the State's resolution, he must retain title to the locks and other constructed portions of the canal lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and the Gulf of Mexico and the Inglis Lock and Dam, for 24 months after the date of enactment. During that time, he must carry out all programmed maintenance on these portions of the canal project.

SECTION 203

Section 203 authorizes and directs the Secretary of the Army to develop two important projects on the lower Truckee River in Nevada. Both projects are environmental enhancement measures which will provide significant benefits to two protected fish, the en-

dangered cui-ui, which is found only in the Truckee River/Pyramid Lake ecosystem, and the threatened Lahontan cutthroat trout, and to the Pyramid Lake Paiute Tribe of Indians who have depended on the fish for their sustenance and livelihood from time immemorial. The trout and the cui-ui, and the ecosystem on which they depend, have been devastated as a result of Federal reclamation and flood control projects dating back to the turn of the century. The two new projects are needed to ovecome the adverse impacts caused by the previous projects and to achieve recovery of the two listed species.

Both projects will be undertaken pursuant to sections 906(e) and 1135 of the Water Resources Development Act of 1986. As implemented, the plan will modify the structures and operations of previous Corps projects to improve the quality of the environment in the public interest in accordance with the criteria for projects authorized under section 1135. Since they will provide significant benefits to both an endangered and a threatened species, the projects' cost will be borne entirely by the Federal government pursuant to section 906(e). It is also worth noting that the projects will fulfill the Federal Government's trust responsibility to the Pyramid Lake Paiute Tribe of Indians by providing significant benefits to the fishery on which the Tribe relies. Section 905(c) of the 1986 Water Resources Development Act is intended to promote such tribal projects.

SECTION 204

The State of Kentucky and the Army Corps of Engineers entered into an agreement under which the Corps would transfer four locks and dams on the Kentucky River to the State for future operation provided the Corps performed certain maintenance work prior to the transfer of the property. This section provides that the transfer shall not take place until such time as the agreed upon maintenance work is completed by the Corps of Engineers.

SECTION 205

This section establishes a management conference for the restoration, conservation, and management of Onondaga Lake, New York.

SECTION 206

This section authorizes funding for the design and construction of an interceptor sewer line system to remedy major water supply and quality problems in Cranston, Rhode Island. The plan is unique in that it addresses multiple sources of pollution under one interconnected treatment system. The project revolves around the city's state-of-the-art wastewater treatment facility. Although the facility currently treats an average wastewater flow of 12 million gallons per day (MGD), it was designed to handle over 20 MGD by the year 2000.

The project will utilize this excess capacity by connecting the State's Central Landfill, which lacks sufficient leachate and wastewater collection, and a planned waste-to-energy recycling facility to be located there, with the City's wastewater treatment

plant. Connecting the Central Landfill is especially important to Rhode Island, as the site threatens both groundwater and the Scituate Reservoir which supplies over half of the State's drinking water. In the process of connecting the Central Lanfill, the City is considering a tie-in to the Capuano Landfill in Cranston for the purpose of collecting and treating the leachate generated by this source.

The Committee believes that this project represents a unique opportunity for the Corps to utilize its engineering and design expertise. The innovative nature of the technical design and the emphasis on a multi-source approach to pollution abatement and prevention afford the Army Corps of Engineers and the Environmental Protection Agency an opportunity to develop a waste treatment model for communities across the country.

SECTION 207

This section authorized the Secretary to reimburse the Roanoke, Virginia hospital for floodproofing which was performed at a time when the Corps indicated that such work would not be included as part of a larger flood control project for the city.

SECTION 208

This section restores the authorization of anchorage areas at Norfolk Harbor which have been deauthorized.

SECTION 209

This section directs the Secretary of State, acting through the Commissioner of the International Boundary and Water Commission, to construct an extension of the Rio Grande American Canal within the United States.

SECTION 210

This section updates section 4(t) of the 1988 Water Resources Development Act regarding the transfer of title to the city of Aberdeen, Washington of the Wynoochee Dam and Lake facilities.

Prior to title transfer, the Corps shall make an inventory of the project's real and personal property to determine which items will be transferred and so notify the City of Aberdeen.

The authority granted to the Secretary is intended to ensure that continued operation and maintenance of the project is consistent with the project purposes. Once title to the project is transferred to the City of Aberdeen, the Secretary will exercise oversight over the City's operation and maintenance performance only as such performance affects the project's authorized purposes.

In order for the city of Aberdeen to carry out the project's fish and wildlife mitigation activities after title transfer, the Secretary and the city should confer prior to transfer as to the nature of such activities, any past or future commitments made by the Secretary, and the financial costs related to such activities after transfer.

SECTION 211

This section authorizes the acquisition of an additional twelve thousand acres of land for mitigation purposes of the Red River

Waterway near the Bayou Bodcau Wildlife Management Area, Louisiana.

SECTION 212

The Alenaio Stream project, Hawaii, was authorized for construction in the 1986 Water Resources Development Act. Detailed design of the project has indicated the need for several changes which necessitate an increase in the cost ceiling for the project. This section provides this increase.

SECTION 213

This section requires the Chief of Engineers and the Secretary of the Army to report on how their operation of the Dworshak Dam in Idaho affects recreation and navigation use of the Dworshak Reservoir. Subsection (b) instructs the Corps not to manage the Dam in a way that "jeopardizes" these uses so that they are, for the most part, unavailable. An exception to this would be provided if the water control plan for the entire Columbia River system necessitates, for regional power demands or other needs, a draw-down of Dworshak Reservoir reserves. This exception is available only if the Corps promulgate its altenative operational plan as required by section 308 of this Act.

It is expected that the water control plan for the Columbia system will identify the region's hydropower as well as any incidental downstream industrial water needs, including the needs of pulp and paper mills. In carrying out this provision, the Corps should prioritize downstream uses which would require a draw-down of Dworshak reserves, and incorporate the comparatively more beneficial uses in the regional water control plan.

SECTION 214

This section directs the Corps to move forward expeditiously in developing and implementing a project to remove sediments and restore the upsteam conservation pool of West Fork of Mill Creek Lake, Ohio, pursuant to Section 1135 of the Water Resources Development Act of 1986. The lake was identified and submitted as a Section 1135 environmental restoration demonstration project in 1987. Congress provided $500,000 for preliminary engineering and design work in fiscal 1989, but allocation of the funds was not approved by the Corps. A directive ordering allocation of the funds subsequently was included in the fiscal year 1989 supplemental appropriations legislation. As of this date, the preliminary engineering and design documents have not been finalized. The Committee is concerned about continued delays with respect to this project, and accordingly, is directing the Corps to expedite it.

SECTION 215

This section extends the authorized period of the Upper Mississippi River Plan authorized in section 1103 of the 1986 Water Resources Development Act by five years. These important environmental enhancement provisions have not been funded as quickly as was originally anticipated. This extension will allow more time to implement these important measures.

SECTION 216

This section authorizes the Secretary to conduct a study and prepare a drought contingency plan for the Red River Valley in Minnesota and North Dakota.

SECTION 217

This section increases the cost ceiling on the project for flood protection located on the South Fork of the Zumbro River in Minnesota. Design changes have increased the total cost of the project to $112 million.

SECTION 218

This section increases the cost ceiling on the project for flood protection at St. Paul, Minnesota. Design changes have increased the total cost of the project to $18,021,000.

SECTION 219

This secton increases the cost ceiling on the project for flood control in Marshall, Minnesota. Design changes have increased the total cost of the project to $9,632,000.

SECTION 220

This section authorizes the Secretary to conduct a study of the impact of water fluctuations at Lake Winnibigoshish, Minnesota, and to cooperate with the U.S. Forest Service in performing bank stabilization measures around the lake.

SECTION 221

This section authorizes the Secretary to conduct 1) a study of lake currents and siltation and 2) a study of the impact of lake levels on fish habitat at each of the six headwater reservoirs of the Mississippi River in Minnesota.

SECTION 222

This section authorizes the relocation of the Southeast Light. The Southeast Lighthouse is located on Mohegan Bluffs on Block Island, Rhode Island and is in imminent danger of falling into the sea. Constructed in 1873, the Light was illuminated as part of the Federal Government's effort to ensure safe navigation in Block Island Sound. The Southeast Light is a truly remarkable structure and unique among all lighthouses. This massive red brick structure, of Victorian Gothic Revival style, consists of a double cottage attached to an octagonal light tower. The Light's Fresnel lens, imported from France, is large enough for six people to stand inside. To this day, the Light is considered one of the primary beacons along the East Coast. The Southeast Light has served its mission well and has long been a symbol of New England's maritime history.

In July of 1990, the United States Coast Guard will retire the Light and replace it with a steel tower aid to navigation. According to geology experts, the bluffs upon which the Light sits has been eroding for over one hundred years. The weakness of the clay sedi-

ment cliff in conjunction with rainfall and wave and tidal action constantly wear back the bluff, often at rates approaching seven feet per year. At present, the Lighthouse is approximately sixty feet from the near vertical cliff. The situation is particularly alarming in view of the fact that over forty feet of land would be required to facilitate a relocation of the structure.

Since 1983, a group of Rhode Islanders has been working to save this magnificent landmark. In 1987, the group formed the Southeast Lighthouse Foundation. The primary goal of the private organization is to raise the necessary funds to cost share fifty percent of the total expense of moving the Light from the edge of the cliff. Upon completion of the move, the Foundation envisions the establishment of permanent maritime and natural history exhibits on display and open to the general public at the Light. The State of Rhode Island and private contributors already have expressed their interest in participating in a cost-sharing agreement.

The Committee believes that a cooperative effort among Federal, State and local interests is warranted in order to preserve this historic landmark. According to recent engineering studies, the total cost of moving the Light is approximately $1,940,000, of which the lesser of one half, or $970,000, is to be funded by the Army Corps of Engineers. The appropriation would not become available unless the Foundation were successful in attracting matching funds to effect the relocation.

The U.S. Army Corps of Engineers is particularly well suited to participate as a partner in this project. As the nation's engineer, the Corps possesses the necessary technical and engineering expertise to undertake the relocation. The Corps is to coordinate the relocation effort with the United States Coast Guard and other interested Federal, State and local interests.

TITLE III: GENERAL PROVISIONS

SECTION 301

This section requires that all future internal policy regulations of the Corps of Engineers--know as Engineer Regulations and Project Operation Plans—be subject to public comment and review before becoming effective. This section also requires that once a cost sharing agreement is signed with a sponsor for a feasibility study, any subsequent changes in policy which would alter the eligibility of the project under study shall not apply to such project.

SECTION 302

This section refers to the implementation of Engineers Regulation 1165-2-123, dated August 31, 1989, and which concerns "single owner" or "single entity" designations related to water project development. This section precludes publicly owned or used facilities from being designated as "single owner" or "single entity" beneficiaries and requires the Secretary to provide to the project sponsor an economic assessment of the precise National Economic Development benefits associated with the project which accrue to such "single owner" or "single entity" when such facility is in private ownership.

SECTION 303

This section amends Section 105(b) of the 1986 Water Resources Development Act to clarify original Congressional intent. In the 1986 Act a number of projects were authorized only for preconstruction planning, engineering, and design, when they had not undergone the feasibility study phase of planning. These activities are undertaken with construction funds and are not part of the normal feasibility study process. At the time, it was the intent of Congress to have the sponsors of such projects contribute half of the cost of such work, similar to the cost sharing which was imposed on the sponsors of feasibilty studies. It was not the intent to require a 50 percent cost share for all such "preconstruction planning, engineering and design" on all projects which follow the normal authorization and planning process. The sponsors of these projects are to contribute half the cost of the feasibility study and whatever the appropriate cost share is for the construction of the project as outlined in the 1986 Water Resources Development Act.

SECTION 304

This section provides that the recommended level of protection for a Corps flood control or storm damage prevention project is to be at least the 100 year level of protection, provided that such protection can be provided economically.

SECTION 305

This section amends section 101 of the 1986 Water Resources Development Act to reduce the local cost sharing required for a navigation project to the extent that the benefits of such project accrue to the armed sevices.

SECTION 306

This section amends Section 33 of the 1988 Water Resources Development Act to permit the acquisition of real property and associated improvements and authorizes monetary compensation to affected landowners whose property has been eroded on the Missouri River due to the operation of the reservoirs on the river by the Army Corps of Engineers.

SECTION 307

Section 103(m) of the 1986 Water Resources Development Act is referred to as the "ability to pay" provision. The implementation of this policy has been criticized on three separate fronts. Constituents from rural areas have found that the existing regulation is a catch-22 which precludes any local cost share reduction for flood control projects which have high economic value and are worth implementing, but provides reductions if the benefit to cost ratio of a project is below unity, indicating an uneconomic investment. Others from poor areas in wealthy States have questioned the requirement that States be required to participate in the local cost sharing of projects although these projects would qualify for a cost share reduction if they were located in a less wealthy State. Poor urban communities have voiced objections to a policy which biases

the calculation of need toward rural areas and excludes urban areas because they are urban rather than because they are wealthy.

The Committee believes that the Secretary needs to reformulate the ability to pay regulation and its method of implementation. The Committee believes that the ability to pay provision was intended to apply to the new requirement for a cash payment as part of the cost sharing requirements for a flood control project, and was never intended to apply to the long standing requirement for the contribution of lands, easements, rights-of-way and relocations by a non-Federal sponsor of flood control projects.

The Committee understands that the Secretary has made a good faith effort to implement this policy, but that a revision is still warranted. The Committee urges the Secretary to consider a number of variables in assessing a community's ability to pay, including income statistics, the taxable base of the community and the size of the project to be constructed. Additionally, the total cost that a jurisdiction is required to bear from traditional lands, easements, rights-of-way, etc. also needs to be considered in determining a community's ability to contribute additional cash toward a project. There should be no arbitrary limit placed on the number of jurisdictions eligible for consideration under this policy, as has been defined by the Secretary. Similarly the policy should not be biased toward either rural or urban areas, and any implementation rule which de facto excludes one type of community or the other is biased.

This section voids the existing regulation and gives the Secretary one year to write a new regulation which focuses on local financial capacity and not State financial capacity; and which focuses on the requirement for a cash contribution. The existing cap of 50 percent on non-Federal contributions to flood control projects is in no way altered by this section.

SECTION 308

This provision requires that when the Corps alters its project operations to the detriment of authorized beneficiaries of a project, it must justify such action and have a determination made by the Secretary that such operational change is in accord with original congressional intent and that authorizing authority for the operating change is not needed.

SECTION 309

This Section authorizes the Secretary to undertake Research and Development activities relating to MAGLEV.

SECTION 310

The Secretary has expressed the need to coordinate with the International Boundary and Water Commission in the State Department on flood protection issues which overlap the Nation's border with Mexico. This section therefore authorizes the Secretary to cooperate in the construction and maintenance of flood gauges in Mexico.

SECTION 311

Current authority of the Corps to provide technical assistance to non-Federal public entities exists only when the work involves some other form of Federal assistance and where the head of the Federal agency providing such assistance does not object to the Corps providing its services. This provision would allow the Corps to provide reimbursable work for a State or political subdivision of a State at the request of the non-Federal public entity.

SECTION 312

This section clarifies Section 1001(b) of the Water Resources Development Act of 1986 which provides for the deauthorization of projects authorized prior to 1986. The purpose of the original provision was to periodically deauthorize projects unless a substantive commitment to construction of the project was made within a reasonable amount of time. Award of a contract for construction of a project reflects such a commitment. However, because it takes more time to obtain and obligate funding, the period during which definitive action must be taken has been increased to four years. This section does not affect subsection (a) of section 1001 of the Water Resources Development Act of 1986, or Section 52 of the 1988 Water Resources Development Act relating to the deauthorization of projects authorized in and subsequent to the 1986 Water Resources Development Act.

SECTION 313

This section authorizes the Corps to provide technical assistance on a reimbursable basis to the private sector when such services cannot be obtained from other elements of the private sector.

SECTION 314

This section authorizes the Secretary to report to the Congress within six months of the date of enactment on a specific cost recovery plan for use of recreation sites and facilities at Corps projects. This plan is to include a list of all recreation areas in which user charges would be imposed, a description of the types of recreation activity to be charged, and a delineation of the specific type and size of user charges.

SECTION 315

This section phases in cost sharing for the planning assistance to States program authorized originally under Section 22 of the Water Resources Development Act of 1974. This provision will phase in cost sharing for such assistance from 10 percent in Fiscal 1991 to 50 percent in fiscal year 1993.

SECTION 316

This section authorizes the Corps to cost share the provision of Flood Plain Management Services to private interests and other Federal agencies. The level of cost recovery authorized is one hundred percent.

SECTION 317

Section 210 of the 1986 Water Resources Development Act authorized the Corps of Engineers to use funds in the Harbor Maintenance Trust Fund for up to 40 percent of the cost of eligible operation and maintenance costs of the nation's harbors. This section authorizes the Corps to use funds in the Harbor Maintenance Trust Fund for up to one hundred percent of such eligible operation and maintenance costs, and defines eligible operation and maintenance costs as: "all necessary dredged material management and disposal costs including studies, monitoring, structures required for disposal and any alternative method of disposal."

SECTION 318

This section authorizes the Corps to plan and coordinate responses for any type of natural disaster. At the present time the Corps can plan for the implementation of relief measures only for flood related disasters.

SECTION 319

Section 204 of the 1986 Water Resources Development Act provided for construction of authorized Federal navigation projects by non-Federal interests. The intention was to expedite the construction of navigation projects. This section applies the provisions of section 204 to small navigation projects constructed under section 107 of the River and Harbor Act of 1960.

SECTION 320

This section amends the existing authority of the Corps to collect debris in New York Harbor. This section authorizes the collection of all types of debris in the Harbor area whether such debris is in the channel or outside the formal channel boundary.

SECTION 321

This section directs the U.S. Geological Survey to conduct a study of the water quality of the Mississippi River in consultation with the Corps of Engineers, the Fish and Wildlife Service, and the Environmental Protection Agency.

SECTION 322

Section 1135 of the Water Resources Development Act of 1986, Public Law 99-662, authorized the Secretary of the Army to carry out a demonstration program in the two-year period beginning on the date of enactment of the 1986 Act for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary before the date of enactment of the Act which would improve the quality of the environment in the public interest. Section 41 of the Water Resources Development Act of 1988, Public Law 100-676, extended the demonstration program period to five years.

The Committee believes that it is imperative for the Army Corps of Engineers to incorporate environmental enhancement advances in all water resources projects and thus authorizes Section 1135 as

a permanent Corps program. This will allow the Army Corps of Engineers to take advantage of environmental opportunities, such as the construction of fish ladders or the diversion of water for the creation of wetlands, at any completed water resources project and afford potential cost sharing partners sufficient time to obtain the necessary financing to support non-Federal participation.

SECTION 323

This section amends the 1941 Flood Control Act to permit the use of emergency funds for conducting emergency dredging operations only in the event if a Presidentially declared emergency or disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

TITLE IV: ZEBRA MUSSELS

The zebra mussel, *Dreissena polymorpha* (Pallas 1771), is native to temperate freshwater habitats of the Black, Caspian, and Azov Seas in Southern Asia.

The zebra mussel is believed to have arrived in North America in the ballast water of a ship from Europe in the summer of 1986, and escaped as larvae in discharged ballast water into Lake St. Clair or the St. Clair River.

Zebra mussels are now well established in Lake St. Clair and in Lake Erie, have been found in the Niagara River and in Lake Ontario at Port Weller (the mouth of the Welland Canal), and have been reported downstream in the St. Lawrence River. There is also a report of isolated mussels having been discovered on a navigation buoy in Green Bay, Wisconsin in the spring of 1989.

The zebra mussel is expected to spread through waterways across much of the United States. This movement will occur in three ways—transport of larvae downstream or downwind by water currents, transport by human activity such as adult mussels attached to vessel hulls or in engine housings, and transport by waterfowl or other wildlife.

This title directs the Corps to develop and design a program of research and technology development for the control of zebra mussels around public infrastructure facilities (water intakes, etc.), and provides $2.5 million a year for five years.

This title also provides $25 million over the next five years for this purpose for assistance to facilities, identified by the State, which, without additional assistance cannot control mussel infestation around public facilities. Such assistance would be provided only with a 50 percent cost share from non-Federal interests.

HEARINGS

The Subcommittee on Water Resources, Transportation, and Infrastructure held two days of hearings on the Water Resources Development Act of 1990 and other related water resources issues. These hearings were held in Washington, D.C. on March 1 and April 19, 1990.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of legislation be noted in the report on that legislation. No rollcall votes were taken on this legislation.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. A copy of that statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 12, 1990.

Hon. QUENTION N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Water Resources Development Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: Not yet assigned.
2. Bill title: The Water Resources Development Act of 1990.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works on May 22, 1990.
4. Bill purpose: The Water Resources Development Act of 1990 (WRDA) would authorize the Secretary of the Army, acting through the Corps of Engineers (Corps), to construct 24 projects for flood control, port development, storm damage reduction, and miscellaneous other purposes. The Corps estimates that these projects have a total federal cost of approximately $1.7 billion in 1990 dollars.

Two additional projects for navigation would also be authorized, contingent upon the issuance of final engineering reports by the Corps. The federal costs of these projects is estimated to total $0.1 billion in 1990 dollars.

The bill also contains provisions that modify 11 existing Corps projects, authorize new programs and studies to be carried out by the Corps and other federal agencies, and make changes in certain Corps operating and financial procedures.

5. Estimated cost to the Federal Government: The estimated budget impact of the projects and activities authorized or mandated in this bill, assuming the necessary appropriations, is shown in the following table for fiscal years 1991 through 1995:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	106	130	174	155	201
Estimated outlays	61	115	155	156	180

In addition, it is estimated that the Corps would spend approximately $2.6 billion after 1995 to complete construction of these projects.

There are a number of provisions in Title III for which no cost estimate could be made. These include provisions which would: require public review of Corps project eligibility criteria; increase levels of flood protection; adjust nonfederal cost-sharing requirements for projects with military benefits; and add reporting requirements for certain Corps project modifications.

The costs of this bill fall primarily in budget function 300.

Basis of estimate: The Water Resources Development Act of 1986 (Public Law 99-662) set an obligation ceiling for Corps construction activities of $1.8 billion for 1991. Information from the Corps indicates that for that year, obligations for currently authorized projects are likely to meet these targets, leaving no money in that year for funding the new projects authorized in this bill. It is possible that, assuming appropriations were provided for newly authorized projects in 1991, spending for these new projects would displace spending on some already authorized projects. In either case, total spending for Corps construction activities will remain constrained by the obligation ceiling. Consequently, we have assumed that enactment of this bill would result in no additional spending in 1991 for activities covered by the obligation ceiling.

Titles I and II—Project Authorizations

The WRDA authorizes the construction of a total of 26 projects: 13 flood control, 4 port development, 2 storm damage reduction, 2 inland navigation, and 5 miscellaneous projects. In most cases, the WRDA specifies estimated total costs for each project in fiscal year 1990 dollars. Where costs are not specified, CBO has obtained estimates from the Corps to reflect prices in 1990 dollars.

This estimate assumes that the bill will be enacted by October 1990 and that the full amounts authorized will be appropriated to keep all projects on a normal planning, design, and construction schedule beginning in fiscal year 1992. Some of the projects authorized in this bill are still in the study or design phase and will not be ready to begin construction for a number of years. Annual spending needs to keep all projects on track were provided to us by the Corps. These annual outlay estimates were then adjusted for inflation and authorization levels sufficient to cover them were calculated.

For the purposes of this estimate, we assumed that all projects authorized will be constructed. Although many projects in this bill would be subject to sunset provisions, we assumed that all projects authorized and subject to these provisions would receive at least some funding within the stipulated periods.

The budget impact of the project authorizations in Titles I and II is shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level		38	95	87	136
Estimated outlays		24	73	85	113

In addition, it is estimated that outlays of approximately $2.6 billion would be incurred by the federal government after 1995 to complete construction of these projects.

Title II—Project-Related Provisions

Modifications: In addition to the five new projects authorized in Title II (the costs of which are included in the preceding section), Title II would modify 11 existing projects. Based on information from the Corps, CBO estimates that these modifications would increase federal costs by $17 million in 1991 and by about $69 million over the 1991–1995 period.

Onandaga Lake Restoration Program: Section 205 would establish a management conference for Onandaga Lake in New York. The conference would be authorized to develop a restoration plan for the lake, and to make grants for research, studies, and plan implementation. The section authorizes the appropriation of such sums as may be necessary for the Corps and the Environmental Protection Agency (EPA) to carry out the program. We estimate that enactment of this section would result in additional costs to the federal government totaling about $7 million in 1991 and $17 million annually thereafter.

All American Canal: Section 209 would direct the International Boundary Waters Commission to construct an extension of the All American Canal in Texas. The section authorizes the appropriation of $42 million for construction and such sums as may be necessary for operation and maintenance of the canal and for a study on the impact of the extension. Based on information from the Commission, we estimate that construction costs would be incurred over a three-year period and that operation and maintenance costs would total about $200,000 annually.

Reports and Studies: Title II would authorize the Corps to study: the regulation of the Dworshak Dam in Idaho; drought contingency planning in Minnesota and North Dakota; and six headwater lakes of the Mississippi River in Minnesota. Based on information from the Corps, we estimate that these studies would cost $300,000 in 1991 and $3 million over the 1991–1995 period.

The toal estimated costs of the provisions in Title II (excluding project authorizations) are shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	73	57	33	21	18
Estimated outlays	41	60	41	27	21

Title III—General Provisions

Corps Miscellaneous Provisions: Title III contains a number of provisions that would: change certain Corps procedures and activities; allow the Corps to charge user fees for certain activities; extend the Corps' authority to carry out certain emergency and environmental restoration activities; and require the preparation of a study on recreation user fees. We estimate that these changes would increase federal costs by $12 million in 1991 and by $78 million over the 1991–1995 period. Offsetting these costs would be additional annual receipts from user fees totaling $500,000 in 1991 and increasing to $2.5 million by 1993.

Additional costs, which cannot be estimated at this time, would also be incurred as a result of provisons which require public review of project eligibility criteria, increase levels of federal flood protection, adjust nonfederal cost-sharing rates for projects with military benefits, and add reporting requirements for certain project modifications.

MAGLEV: Section 309 would direct the Corps to conduct research and development on magnetic levitation technology. The Corps would also be authorized to design, construct, test, and evaluate various prototypes, including a full-scale prototype system. Such sums as may be necessary would be authorized for these purposes.

Based on information provided by the Corps, CBO estimates that the total cost of a prototype magnetic levitation system would be about $1 billion over eight years. Further, CBO assumed that the federal government would pay 50 percent of these costs, with the remainder to be paid by private industry or state or local governments. Over the next five years we would expect federal costs to total about $80 million. Construction of such a system would probably begin in fiscal year 1996, at which time total costs would increase to $200 million to $300 million per year for two-to-three years. Federal costs in those years would increase commensurately.

Mississippi River Study: Section 321 would direct the U.S. Geological Survey to conduct a study of the water quality of the Mississippi River and would authorize the appropriation of $2 million for this purpose. We estimate that these amounts would be spent over a two-year period, beginning in 1991.

The costs of Title II are shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	25	28	39	39	39
Estimated outlays	17	25	33	37	39

Title IV—Zebra Mussel Control Act of 1990

Title IV would authorize the Corps, in consultation with the Fish and Wildlife Service and EPA, to develop a program for the control of zebra mussels in and around infrastructure facilities. A total of $7.5 million would be authorized annually for fiscal years 1991 through 1995: $2.5 million for research and development, and $5 million for state grants.

The budget impact of Title IV is shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Authorization level	8	8	8	8	8
Estimated outlays	3	7	8	8	8

6. Estimated cost to State and local governments: The estimated total state and local share of the projects authorized in this bill is shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated outlays		12	31	38	38

In addition, it is estimated that nonfederal units of government would spend approximately $800 million after 1995 for their share of project costs.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 1, 1990, CBO prepared a cost estimate for S. 221, as ordered reported by the Senate Committee on Environment and Public Works on April 24, 1990. Section 2 of that bill is identical to Section 309 of the WRDA, which authorizes funding for magnetic levitation projects. The cost estimates for these sections are the same.

9. Estimate prepared by: Theresa Gullo and Marjorie Miller (MAGLEV) (226-2860).

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Evaluation of Regulatory Impact

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of this legislation. No provisions explicitly require that new regulations be promulgated that would directly regulate individuals, consumers or businesses or that would impact the privacy of individuals.

Section 307 requires the Corps to revise "ability to pay" provisions governing the extent to which non-Federal project sponsors may be relieved of paying a portion of the normal non-Federal cost. This will likely require the development of new regulations used by the Corps in making its determinations.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirement of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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